

December 10, 2020 Oral Argument on Complainant's Request for Interim Relief

Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Late-Filed Exhibit 2
Timeline of Communications

In response to Commissioner Williams' request, Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP," and together with DEC, the "Companies" or "Duke") provide the following timeline of communications with LS Power, the parent company of Cherokee Cogeneration Partners, LLC's ("Cherokee"), as evidencing Duke's good faith efforts to negotiate a purchase power agreement ("PPA") in compliance with the Public Service Commission of South Carolina's ("PSC") implementation of the Public Utility Regulatory Policies Act of 1978 ("PURPA") as directed in Commission Order Nos. 2020-315(A), 2019-881(A), and 2016-349.

<u>Date</u>	<u>Activity</u>
9/19/2012	Commission Order No. 2012-743 accepts Cherokee PPA extending through December 31, 2020 ("2012 PPA"), as compliant with PURPA.
5/12/2016	Commission Order No. 2016-349 approves DEC's and DEP's updated standard offer avoided cost rates and directs Companies to negotiate avoided cost rate and PPAs with QFs above 2 MW not eligible for standard offer, consistent with PURPA.
7/25/2018	DEC representatives visit Cherokee facility and engage in initial discussion regarding successor PPA to become effective 1/1/2021
8/27/2018	DEP issues a non-PURPA Capacity and Energy Market Solicitation ("DEP 2018 Capacity Solicitation") to meet reliability needs for approximately 2,000 megawatts (MW) of capacity between 2020-2024. See Attachment 1 .
9/18/2018	Cherokee delivers letter asserting intent to sell to DEC under PURPA, notice of commitment form, and FERC Form 556 to DEC. See Attachment 2 .
9/19/2018	DEC confirms receipt of 9/18/2018 letter. ¹
9/24/2018	Cherokee submits Proposal in DEP 2018 Capacity Solicitation.
10/5/2018	DEC sends response letter to Cherokee agreeing to commence negotiations, but denying that Cherokee established legally enforceable obligation ("LEO") by sending letter and notice of commitment form applicable to 2 MW or less standard offer QFs. DEC commits to provide current avoided cost rates for five-year term PPA on or about October 31, 2018, which would remain available for 60 days for negotiations to be completed. See Attachment 3 .
10/11/2018	Confidentiality Agreement executed by both parties.
10/31/2018	DEC sends Large QF avoided cost rates and draft PPA to Cherokee. See Attachment 4 .

¹ Due to the generic nature of this communication, no attachment is included.

<u>Date</u>	<u>Activity</u>
12/5/2018	DEC receives verbal notification from Cherokee that it wants to enter into negotiations with DEC based on avoided cost rates and terms offered in the 10/31/2018 letter.
12/7/2018	DEC receives unsolicited term sheet from Cherokee offering to sell power based on structure of 2012 PPA. See <u>Confidential Attachment 5</u> .
12/12/2018	Cherokee delivers cover letter asserting intent to sell to DEP under PURPA, notice of commitment form, and FERC Form 556 to DEP. See <u>Attachment 6</u> .
12/17/2018	DEP sends email to Cherokee confirming receipt of 12/12/2018 information. ²
12/21/2018	DEP sends response letter to Cherokee agreeing to commence negotiations, but denying that Cherokee established LEO by sending letter and notice of commitment form applicable to 2 MW or less standard offer QFs. DEC commits to provide current avoided cost rates for five-year term PPA on or about January 31, 2019, which would remain available for 60 days for negotiations to be completed. See <u>Attachment 7</u> .
12/21/2018	DEC responds to Cherokee's 12/7/2018 unsolicited term sheet, explaining that DEC not actively soliciting non-PURPA capacity and proposal is well above DEC's avoided cost. See <u>Attachment 8</u> .
12/31/2018	<i>Note: DEC's large QF avoided costs delivered 10/31/2018 expire without Cherokee entering into PPA.</i>
2/1/2019	DEP sends avoided cost rates to Cherokee. See <u>Attachment 9</u> .
3/7/2019	<i>Note: DEP's large QF avoided costs delivered 2/1/2019 expire without Cherokee entering into PPA.</i>
5/6/2019	DEC receives letter from LS Power dated 4/30/2019 requesting information and methodology regarding DEC avoided costs. See <u>Attachment 10</u> .
5/6/2019	DEP receives letter from LS Power dated 4/30/2019 requesting information and methodology regarding DEP avoided costs. See <u>Attachment 11</u> .
6/14/2019	DEC and DEP send joint response letter to LS Power's 5/6/2019 letters to DEC and DEP. See <u>Attachment 12</u> .
1/2/2020	Commission issues Order No. 2019-881(A) approving DEC's and DEP's standard offer avoided cost rates, Large QF form PPA and methodology for calculating avoided cost rates for purchases from Large QFs above 2 MW.
1/17/2020	DEC and DEP file SC Large QF Tariff rates in Docket Nos. 2019-185-E and 2019-186-E in compliance with Order No. 2019-881(A).
3/30/2020	First communication from Cherokee since Duke's 6/14/2019 Letter. D. Johnson receives email from N. Hanson of LS Power requesting a conference call to discuss Cherokee PPA renewal. ³
4/2/2020	M. Keen and D. Johnson of Duke participate in phone call with N. Hanson of LS Power.

² Due to the generic nature of this communication, no attachment is included.

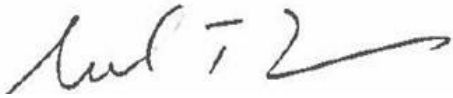
³ Due to the generic nature of this communication, no attachment is included.

<u>Date</u>	<u>Activity</u>
4/9/2020	DEP receives unsolicited confidential non-PURPA proposal from LS Power with two alternatives. See <u>Confidential Attachment 13</u> .
4/17/2020	Commission issues Order No. 2020-315(A) on rehearing modifying methodology for calculating avoided cost rates for purchases from Large QFs above 2 MW.
5/4/2020	LS Power sends letter to DEP requesting updated avoided cost rates and requesting meeting to discuss same. See <u>Attachment 14</u> .
5/15/2020	DEC and DEP file updated SC Large QF Tariff rates in Docket Nos. 2019-185-E and 2019-186-E.
6/24/2020	DEP sends response to Cherokee's 5/4/2020 letter providing Commission-approved Large QF form PPA and updated avoided cost rates based upon Commission-approved methodology. See <u>Confidential Attachment 15</u> .
7/20/2020	LS Power sends letter to DEP requesting supplemental information regarding DEP's calculation of avoided costs delivered 6/24/2020. See <u>Attachment 16</u> .
7/28/2020	Telephone conference held between M. Keen and N. Hanson to provide status update on answers to questions and study of DEC PPA.
8/20/2020	DEP sends letter to Cherokee providing responses to requests for supplemental information. DEP agrees to extend avoided cost rates offered 6/24/2020 to 9/4/2020. See <u>Attachment 17</u> .
9/1/2020	DEC and DEP file 2020 IRPs in Docket Nos. 2020-224-E and 2020-225-E. DEC's next avoidable capacity need in 2026 remains unchanged. DEP's next avoidable capacity need shifts to 2024 due to DEP's procurement of 2,000 MW of PPAs through 2018 DEP Capacity Solicitation.
9/4/2020	<i>Note: DEP Large QF avoided cost rates offered 6/24/2020 expire without Cherokee entering into PPA.</i>
9/14/2020	Teleconference between N. Hanson and M. Keen for Keen to provide status update.
9/17/2020	Teleconference between N. Hanson and M. Keen to discuss framework for DEC negotiated dispatchable tolling agreement similar to 2012 PPA structure. Keen verbally offers 10-year avoided cost rates.
9/23/2020	Call with N. Hansen at his request. LS Power verbally rejects DEC's offer provided on 9/17/2020 and provides a verbal counteroffer.
9/25/2020	LS Power sends non-solicited proposal as "counteroffer" to DEC's 9/17/2020 offer. See <u>Confidential Attachment 18</u> .
10/5/2020	M. Keen emails N. Hanson notifying that DEC cannot accept LS Power's counteroffer since it is above DEC's avoided costs. See <u>Attachment 19</u> .
10/26/2020	DEC and DEP file updated SC Large QF Tariff rates in Docket Nos. 2019-185-E and 2019-186-E.
10/27/2020	M. Keen sends copies of new SC Large QF Tariffs to N. Hanson of LS Power. See <u>Attachment 20</u> .

<u>Date</u>	<u>Activity</u>
12/4/2020	LS Power requests interim as available rate agreement to become effective 1/1/2021. DEC begins working on same. See <u>Attachment 21</u> .

CERTIFICATION

I, Michael T. Keen, state and attest, under penalty of perjury, that I have reviewed the foregoing Duke Energy Late-Filed Exhibit 2, and, in the exercise of due diligence, have made reasonable inquiry into the accuracy of the information and representations provided therein; and that, to the best of my knowledge, information, and belief, all information contained therein is accurate and true and contains no false, fictitious, fraudulent or misleading statements; that no material information or fact has been knowingly omitted or misstated therein, and that all information contained therein has been prepared and presented in accordance with all applicable South Carolina general statutes, Commission rules and regulations, and applicable Commission Orders. Any violation of this Certification may result in the Commission initiating a formal review proceeding. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment by contempt.



Name: Michael T. Keen

Title: Business Development Manager

Duke Energy Carolinas, LLC and Duke Energy Progress, LLC